



**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**
Caption in compliance with D.N.J. LBR 9004-1(b)

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In re:	Chapter 11
BED BATH & BEYOND INC., et al. ³	Case No. 23-13359 (VFP)
Debtors.	(Joint Administration Requested)

**STIPULATION AND CONSENT ORDER PERMITTING THE
ADVANCEMENT OF DEFENSE COSTS UNDER THE
DEBTORS' DIRECTORS AND OFFICERS LIABILITY INSURANCE POLICY**

The relief set forth on the following pages, numbered two (2) through five (5) is hereby

ORDERED

DATED: February 13, 2024

A handwritten signature in black ink, appearing to read "Honorable Vincent F. Papalia".

Honorable Vincent F. Papalia
United States Bankruptcy Judge

³ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 650 Liberty Avenue, Union, New Jersey 07083.

This stipulation and consent order (the “Stipulation”) is made by and between Michael I. Goldberger as Plan Administrator (the “Plan Administrator”) for the debtors (the “Debtors”) in the above-captioned chapter 11 case, Zurich American Insurance Company (“Zurich” or the “Insurer”), and Harriet Edelman, Joshua Schechter, Andrea Weiss, Sue Gove, and the estate of Gustavo Arnal (collectively the “Insureds”), by and through their undersigned counsel, permitting the advancement of defense costs under Side A of the Directors & Officers Liability Insurance Policy No. 8702221-00 (the “D&O Policy”) issued by Zurich to debtor Bed Bath & Beyond, Inc (“BBBY”) to fund Defense Cost and other Loss (as each term is defined in the D&O Policy) incurred in connection with certain matters noticed in accordance with the D&O Policy. The Plan Administrator and Insureds stipulate, agree, and state as follows:

RECITALS

WHEREAS, the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on April 23, 2023, in the United States Bankruptcy Court in the District of New Jersey (this “Court”);

WHEREAS, the Debtors continued to operate their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on July 20 & 21, 2023, the Debtors filed their Joint Plan of Reorganization (as subsequently amended, the “Plan”) ⁴ and the Disclosure Statement related thereto;

WHEREAS, on September 14, 2023, the Court entered an order approving the Disclosure Statement on final basis and confirming the Plan, and on September 29, 2023, the effective date of the Plan occurred and the Plan was consummated;

⁴ Capitalized terms not otherwise defined herein or in the D&O Policy shall have the meanings ascribed to them in the Plan.

WHEREAS, pursuant to the Plan, on the Effective Date, the Plan Administrator became the sole representative of the Wind-Down Debtors;

WHEREAS, at various times prior to April 23, 2023, Insured Parties Harriet Edelman, Joshua Schechter, Andrea Weiss, Sue Gove, and Gustavo Arnal each served as directors and/or officers of BBBY;

WHEREAS, under Side A the D&O Policy issued by Zurich to debtor BBBY to fund Defense Cost and other Loss incurred in connection with certain matters noticed in accordance with the D&O Policy as set forth in the chart below:

Insured's Name	Policy Number
Bed Bath & Beyond, Inc.	DOC 8702221-00

WHEREAS, for the policy period running from September 15, 2021 to September 2022 (the “Policy Period”), the Debtors maintained the D&O Policy issued by Zurich with an aggregate limit of liability of \$10,000,000 (the “Advancement Amount”) subject to the terms and conditions of the D&O Policy;

WHEREAS, between October 28, 2023 and November 6, 2023, Harriet Edelman, Joshua Schechter, and Andrea Weiss each received a subpoena relating to their service on the BBBY board of directors which will give rise to Defense Costs and other potential Loss which are covered under the D&O Policy;

WHEREAS, Sue Gove and Gustavo Arnal were each named as defendants in a putative securities class action relating to their service as officers of BBBY which gave rise to Defense Costs and other potential Loss which are covered under the D&O Policy;

WHEREAS, Zurich has agreed to advance the Defense Costs and other Loss of the Insureds under the D&O Policy pursuant to the D&O Policy's terms, subject to its reservation of rights and upon entry of an order of the Bankruptcy Court permitting such advancements;

WHEREAS, the Plan provides that after the Effective Date, the Plan Administrator shall not terminate or otherwise reduce the coverage under the D&O Policy in effect on the Effective Date, with respect to conduct occurring prior thereto, and all officers, directors, trustee, managers, and members of the Debtors who served in such capacity at any time before the Effective Date shall be entitled in accordance with, and subject in all respects to, the terms and conditions of any applicable D&O Policy, which shall not be altered, to the full benefits of any such D&O Policy for the full term of such D&O Policy regardless of whether such officers, directors, trustees, managers, or members remain in such position after the Effective Date; and

WHEREAS, the Stipulation shall be without prejudice to any further requests from the Insureds to advance costs and expenses from the D&O Policy in connection with any other actions or claims covered by the D&O Policy.

STIPULATION

NOW, THEREFORE, in consideration of the foregoing recitals, it is hereby stipulated, consented, and agreed to by and among the Debtors and the Insureds effective upon the Court's approval and entry of this Stipulation that:

1. To the extent the automatic stay triggered by the commencement of the Chapter 11 Case would otherwise prohibit the payment under the D&O Policy, Zurich is authorized to make payments covered by the policy or subject to the policy for Defense Costs and other Loss (as defined in the D&O Policy) incurred by the Insureds. The automatic stay is hereby lifted, to the extent applicable and necessary, to effectuate the relief granted herein.

2. Payments made by Zurich under the D&O Policy pursuant to this Stipulation shall reduce the respective limits of liability of the applicable D&O Policy and shall not be considered a violation of the automatic stay, nor shall such proceeds be considered property of the Debtors' estates.

3. This Stipulation is without prejudice to the rights of any party with respect to the D&O Policy, other than with respect to the fees and costs advancement or reimbursed pursuant to the D&O Policy.

4. Nothing in this Stipulation constitutes (a) an admission as to the validity of any claim or cause of action against any of the Insureds; (b) a waiver of the Insureds' rights to dispute any claim or cause of action under applicable law or non-bankruptcy law; or (c) a waiver of the Insureds' rights under the Plan, the Bankruptcy Code or under any other applicable law. Any payment made pursuant to the Stipulation is not intended to be and should not be construed as an admission to the validity of any claim or cause of action or a waiver of the Insureds' rights in any respect.

5. This Stipulation does not modify or alter any provision of the D&O Policy or the Plan.

6. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Stipulation shall be immediately effective and enforceable upon its entry. To the extent there is any conflict between the terms of this Stipulation and the Plan, the terms of the Plan control.

7. The Plan Administrator, Zurich, and the Insureds are authorized to take all actions necessary to effectuate the relief granted in this Stipulation.

8. This Court shall retain jurisdiction over all matters related to the implementation of this Stipulation.

Dated: February 2, 2024

**CLEARY GOTTLIEB STEEN &
HAMILTON LLP**

/s/ Jeffery A. Rosenthal

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